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IN THE

Supreme Court of the United States

OCTOBER TERM, 1967

NO. [redacted] 67

WILLIAM H. ROBINSON, et al.,

Appellants.

vs.

GWENDOLYN JOHNSON, et al.,

Appellees.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division

JURISDICTIONAL STATEMENT

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INDEX

Subject Index

	PAGE
Opinion Below	2
Jurisdiction	2-3
Statutes Involved	3
Question Presented	3
Statement of Facts	3-5
The Questions Are Substantial	5-7
I. Do the Illinois statutes requiring one year of residence in Illinois for certain forms of public assistance violate the Equal Protection Clause of the Fourteenth Amendment?	5-6
II. Do the Illinois statutes requiring residence of one year in order to receive public assistance violate the Commerce Clause of the Constitution?	6-7
Conclusion	8
Appendix:	
A. Opinion and Judgment of the United States District Court, Northern District of Illinois, Eastern Division	9-22
B. Illinois Revised Statutes, Chapter, 23, Section 3-1.1; 4-1.5 and 6-11 (1967)	23-25
C. Rules and Regulations of the Illinois Public Aid Commission, (Now the Department of Public Aid)	26-27

Cases Cited

American Federation of Labor v. Watson, 372 U.S. 582 (1946) 3

Drueding v. Devlin, 234 F. Supp. 721, (D. Md., 1964), *Aff'd per curiam,* 380 U.S. 125 (1965) 6

Edwards v. California, 314 U.S. 160 (1941) 6

People ex rel. Heydenreich v. Lyons, 374 Ill. 557, 30 N.E. 2d 46 (1949) 5

Pope v. Williams, 193 U.S. 621 (1904) 6

Ramos v. Health and Social Service Board, 276 F. Supp. 474 (E.D. Wisc., 1967) 6

United States v. Georgia Public Service Commission, 371 U.S. 285 (1963) 3

Waggoner v. Rosenn, —— F. Supp. ——, (M.D. Pa., 1968) (Civil Action No. 9841) 6

Statutes Cited

28 U.S.C. § 1253 2

28 U.S.C. § 1343 2

28 U.S.C. §§ 2201, 2202 2

28 U.S.C. §§ 2281, 2284 2

42 U.S.C. § 602 (b) 5

42 U.S.C. § 1983 2

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JURISDICTIONAL STATEMENT

JUDGMENT APPEALED FROM

Appellants, William H. Robinson, Director of the Cook County Department of Public Aid, and Harold O. Swank, Director of the Illinois Department of Public Aid, appeal from the final judgment of the specially constituted United States District Court for the Northern District of Illinois, Eastern Division. Appellants submit this Statement to show that the Supreme Court of the United States has

jurisdiction of the appeal and that substantial questions are presented.

OPINION BELOW

The Opinion of the United States District Court, Northern District of Illinois, Eastern Division, which is the subject of this appeal, is not yet reported. Copies of the opinion containing findings of fact and conclusions of law and judgment are attached hereto as Appendix A.

JURISDICTION

This action was brought by the appellees (plaintiffs) in the United States District Court for the Northern District of Illinois, Eastern Division, under 28 U.S.C. sections 1343, 2201, and 2202 and 42 U.S.C. section 1983 to declare the one-year residence requirements in Chapter 23, paragraphs 3-1.1, 4-1.5, and 6-1.1, Illinois Revised Statutes of 1967, as violative of the United States Constitution, and to enjoin the appellants (defendants) from enforcing against the appellees and the class they represent the one-year residence requirements.

A three-judge court was convened pursuant to 28 U.S.C. sections 2281 and 2284 to determine the cause. The matter was heard, and on December 28, 1967, an opinion granting a preliminary injunction to the plaintiffs was rendered. On February 20, 1968, a judgment granting a permanent injunction was entered. From this judgment of February 20, 1968, the appellants have appealed. The jurisdiction of the Supreme Court to review by direct appeal is conferred by 28 U.S.C. 1253. The following decisions sustain the jurisdiction of this Court to review a judgment on direct appeal from a three-judge district court:

United States v. *Georgia Public Service Commission*, 371 U. S. 285, 287;
American Federation of Labor v. *Watson*, 327 U.S. 582, 591.

STATUTES INVOLVED

Provisions of the Public Aid Code of the State of Illinois, Chapter 23, paragraphs 3-1.1, 4-1.5, and 6-1.1 of the Illinois Revised Statutes of 1967, are involved. These statutes and relevant rules and regulations promulgated pursuant to them are set forth in Appendices B and C.

QUESTION PRESENTED

The following question is presented by this appeal: Whether the provisions of the Public Aid Code of the State of Illinois, which make residence in the State of Illinois for one year a condition for eligibility for public assistance, are repugnant to the Constitution of the United States.

STATEMENT OF FACTS

Appellants, William H. Robinson, and Harold O. Swank, are officials of Cook County, Illinois, and the State of Illinois, respectively, charged with the responsibility of administering the Public Aid Code of the State of Illinois. Appellees are members of a class of residents of the State of Illinois whose applications for public assistance were denied by agents of appellants because they had not, as required by the Code, resided in the State of Illinois for one year immediately preceding the dates of their applications.

Appellee Gwendolyn Johnson, together with her husband, James, and their minor child, moved from Plainfield, New Jersey, to Chicago, Illinois on April 10, 1967. Mrs. Johnson was pregnant at the time of the move. Sometime during April of 1967, James Johnson deserted his pregnant wife and their child, evidently returning to New Jersey. Mrs. Johnson moved in with an aunt and uncle and received support from them. Attempts to obtain support from Mr. Johnson have not been successful thus far.

On August 30, 1967, Mrs. Johnson applied for Aid to Families with Dependent Children. This application was denied because Mrs. Johnson had not resided in Illinois for one year. On November 4, 1967, Mrs. Johnson was admitted to Cook County Hospital, where a female child was born. Mrs. Johnson was granted Medical Assistance by the Cook County Department of Public Aid.

Appellee Susan Brewer, lived in Evanston, Illinois from 1922 to November, 1964, when she moved to California to live with her daughter. In August, 1967, she returned to Evanston, Illinois. In August, 1967, she applied for Old Age Assistance, which application was denied because Mrs. Brewer had not lived in Illinois for one year preceding her application. Subsequently, Mrs. Brewer was granted temporary general assistance.

Illinois furnishes temporary general assistance to persons who have not resided in Illinois for one year preceding their application for public assistance. Illinois also furnishes Medical Assistance to persons without regard to any residence requirement.

In April of 1967, the average payment per family under the Illinois Aid to Families with Dependent Children Program was $204.90. The average payment in Mississippi

for the same month was $38.75 per family; in Alabama $52.70; in Texas $95.70; and in South Carolina $61.75.

Forty states in the United States have residence requirements for their Aid to Families with Dependent Children program. Congress, pursuant to 42 U.S.C. section 602 (b), provides for Federal contributions to State Aid to Families with Dependent Children programs where the durational residence requirement does not exceed one year.

THE QUESTIONS ARE SUBSTANTIAL

I. Do the Illinois statutes requiring one year of residence in Illinois for certain forms of public assistance violate the Equal Protection Clause of the Fourteenth Amendment?

Illinois traditionally has been among the most generous States in providing public assistance to its residents. The purpose of the Illinois General Assembly in requiring a residence of one year in order to receive public assistance is not only to discourage an influx of non-residents and transients from coming to Illinois solely to obtain public aid, but also to ensure that the obligations of Illinois to assist its indigent residents be generously fulfilled.

Statutory residence requirements for public assistance, similar to those here involved, have been in effect in the great majority of jurisdictions in the United States for many years. Until recently, the constitutionality of such provisions was seldom challenged, and such challenges as were made were uniformly rejected. See, i.e., *People ex rel. Heydenreich* v. *Lyons,* 374 Ill. 557, 30 N.E. 2d 46 (1949).

Questions involving the constitutionality of residence requirements for public assistance have recently been presented to three-judge District Courts in several jurisdictions. In those instances in which the court struck down the residence requirement, it did so primarily on the ground that the statutes offended the Equal Protection Clause of the Fourteenth Amendment. See, i.e., *Ramos* v. *Health and Social Services Board of State of Wisconsin,* 276 F. Supp. 474, (E.D. Wisc., 1967). However in *Waggoner* v. *Rosenn,* (M.D. Pa., 1968),——F. Supp. —— (Civil Action No. 9841), the court upheld the constitutionality of the residence statute of Pennsylvania.

Residence requirements have been a common feature of various statutory schemes. For example, other than the residence requirement for public assistance, Illinois requires a one-year residence before a person may vote, a two-year residence for 85% of all persons employed by race track associations, a six-month residence in order to institute adoption proceedings, and a one-year residence before a person may acquire a small loan license.

The argument that equal protection of the laws does not prohibit durational residence requirements would seem to be clearly settled in decisions upholding residence tests for voting. *Drueding* v. *Devlin,* 234 F. Supp. 721 (D. Md. 1964), aff'd per curiam, 380 U.S. 125; *Pope* v. *Williams,* 193 U.S. 621.

II. Do the Illinois statutes requiring residence of one year in order to receive public assistance violate the Commerce Clause of the United States Constitution?

In *Edwards* v. *California,* 314 U.S. 160, a California statute making it a misdemeanor knowingly to bring a non-resident indigent into California was declared unconstitutional. The court held that movement of persons

om State to State was commerce and that the California atute in restricting the right of persons to travel freely tween the States violated the Commerce Clause.

The Illinois residence requirements for public assistce do not prohibit travel between the States. Further, e Illinois residence test does not impose any criminal nctions.

In fact, Congress, which has the exclusive power to gulate commerce between the States, has acted in this ea by enacting 42 U.S.C. section 605 (b). This section aces a stamp of approval on the Illinois residence reirements by providing for Federal financing of State blic assistance programs where the durational resince requirement does not exceed one year.

Finally, the contention that durational residence requirents prohibit the right to travel between the States can ad to many interesting conclusions. If Illinois cannot opt a residence test, all States with public aid benefits ss generous than Illinois (and there are many) should required to increase their benefits to equal those granted Illinois. Otherwise, Illinois residents receiving public sistance who desire to move to another state may feel restriction on their right to travel if they were to reive lesser benefits in the State to which they desire to ove.

CONCLUSION

The questions involved here are substantial. Since a Federal-State relationship of several decades involving forty States is at issue, questions of national significance have been raised.

The District Courts which have considered these questions have reached conflicting conclusions, not only as to the ultimate question of constitutionality, but in interpretation of the Equal Protection and Commerce Clauses of the Constitution. These questions should be resolved by this Court.

Respectfully submitted,

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APPENDIX A.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Gwendolyn Johnson, individually and on behalf of her minor child, Charles James Johnson; and Susan Brewer, all individually and on behalf of all others similarly situated,

Plaintiffs,

vs.

William H. Robinson, Director, Cook County Department of Public Aid; Harold O. Swank, Director, Illinois Department of Public Aid; William G. Clark, Attorney General of the State of Illinois,

Defendants.

No. 67 C 1883
Civil Action

Before Fairchild, Circuit Judge, Lynch and Napoli, District Judges.

Fairchild, *Circuit Judge*. This is an action for injunction against enforcement of certain provisions of the Illinois Statutes upon the ground of their unconstitutionality. The challenged provisions require an applicant for certain welfare aids to have continuously resided for one whole year in this state immediately preceding the application for aid.[1]

1. The requirement is found in ch. 23, Smith-Hurd Illinois Annotated Statutes, §§ 3-1.1 (aid to aged, blind or disabled); 4-1.5 (aid to dependent chilren); 6-1.1 (general assistance).

Plaintiff Gwendolyn Johnson is a citizen of the United States and a resident of Chicago, Illinois, whose application for aid to dependent children or general assistance has been denied because her present period of continuous residence in Illinois is less than one year. She sues individually, and on behalf of her two minor children, and all others similarly situated.

Plaintiff Susan Brewer, is a seventy-four year old widow who is a citizen of the United States and a resident of Evanston, Illinois, whose application for aid to the aged or for general assistance has been denied before commencement of this action because her present period of continuous residence in Illinois is less than a year. She sues individually and on behalf of all others similarly situated.

Defendants are state and county officers charged with administration of the statutes in question, as well as the attorney general of Illinois.

Plaintiffs moved for a preliminary injunction. Each defendant moved to dismiss. A hearing was held on these motions on December 11, 1967.

On the basis of the present record, and for the purpose of the motion for preliminary injunction, we find the facts and reach the conclusions stated herein.

Prior to 1964 Mrs. Johnson lived with her aunt and uncle in Georgia. After they moved to Chicago she went to college in Arkansas, but visited frequently in Chicago. After she married she moved to New Jersey with her husband.

On April 10, 1967, she, her husband, and child moved to Chicago so her husband could seek work and she could be near her aunt and uncle. Near the end of April her husband deserted her. Since living in Illinois Mrs. John-

son, who has recently given birth to her second child, has stayed in the crowded apartment of her aunt and uncle. Mrs. Johnson is without financial resources and has been living by the generosity of her aunt and uncle. She asserts that she is eligible for aid to dependent children as well as general assistance except for the residence requirement, and the record does not show her otherwise ineligible.

Susan Brewer was born in Ireland on June 22, 1893. She came to Evanston, Illinois, in 1922 where she acquired American citizenship. She has resided in Evanston since her arrival in the United States except for the period of November, 1964 to August, 1967, when she lived with her daughter in California. When her daughter moved back to Illinois, Susan Brewer returned to Evanston. The only source of income is a small monthly social security check.[2] She asserts that she is eligible for aid to the aged, except for the residence requirement, and the record does not show her otherwise ineligible.

Motions to Dismiss

Defendant Robinson, director of Cook County department of public aid, moved to dismiss the action as to him because he was only an agent of defendant Swank who is director of public aid for the state. Since defendant Robinson directs all categorical aid in Cook County and all

2. Since commencement of this suit Mrs. Brewer has received some temporary emergency general assistance for a period of thirty days under Smith-Hurd Illinois Annotated Statutes, ch. 23, § 6-1.1. The temporary grant was made because of the possibility that she may persuade the authorities that she did not lose residence in Illinois while in California.

general assistance in the city of Chicago, he is properly a party to this suit.

Defendants Swank and Clark move to dismiss as to themselves on several grounds. First, they contend that the Civil Rights Act[3] does not grant jurisdiction in cases involving alleged denials of the equal protection clause of the Fourteenth amendment. They cite *Ortega* v. *Ragen*.[4] That decision is distinguishable on its facts. There are a number of decisions recognizing a claim of denial of equal protection under sec. 1983, in circumstances comparable to the present ones.[5]

Second, defendants contend that plaintiffs have failed to exhaust administrative remedies. While ch. 23 § 11-8[6] does allow administrative review from adverse decisions concerning categorical aid and while ch. 23, § 11-8.7[7] does provide for judicial review, such review, even if it culminated in setting aside the residence requirement, which defendants do not suggest would happen, is not an aequate remedy in view of the immediacy of plaintiffs' needs.[8]

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3. 42 U.S.C. § 1983, read together with 28 U.S.C. sec 1343(3).

4. (7th Cir. 1954), 216 F. 2d 61.

5. See *McNeeese* v. *Board of Educ.* (1963), 373 U.S. 668, 83 S. Ct. 1433, 10 L. Ed. 2d 622. *Adams* v. *City of Park Ridge* (7th Cir. 1961), 293 F. 2d 585. See also *Moss* v. *Hornig* (2d Cir. 1963), 314 F. 2d 89 where *Ortega* is distinguished.

6. Smith-Hurd Illinois Annotated Statutes.

7. Id.

8. *McNeese* v. *Board of Educ.* (1963), 373 U.S. 668, 83 S. Ct. 1433, 10 L. Ed. 2d 622.

Defendant, William G. Clark, Illinois' attorney general, who seeks dismissal, has some duties under the welfare laws but those duties are not relevant to the problem presented here.[9]

We deny these motions to dismiss except that we grant the motion to dismiss as to defendant Clark.

Equal Protection of the Laws.

Plaintiffs in this action are residents of Illinois, are in need, and (except for duration of residence) would seem to be eligible for categorical or general assistance. The provisions under attack divide the entire group of needy and eligible Illinois residents into two classes: Aid is denied (except for temporary emergency general assistance) to the class, which includes plaintiffs, who have resided in the state less than one year immediately past. Aid is granted to those who have resided continuously within Illinois for the past year.

The ultimate question is whether the classification is reasonable in the light of some proper legislative purpose. If not, the provision denies equal protection of the laws.

The question has recently been decided adversely to defendants in several other districts.[10] A portion of the

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9. Smith-Hurd, Illinois Annotated Statutes, ch. 23, § 10-15, for enforcement of orders against responsible relatives; § 12-16 for recovery of financial aid.

10. *Ramos* v. *Health and Social Services Board* (E.D. Wis. Nov. 21, 1967), No. 67-C-329; *Harrell* v. *Tobriner* (D. D. C., Nov. 8, 1967), No. 1497-67; *Thompson* v. *Shapiro* (D. Conn. 1967), 270 F. Supp. 331; *Green* v. *Department of Welfare* (D. Del. 1967), 270 F. Supp. 173. A preliminary injunction was granted in Pennsylvania, *Smith* v. *Reynolds* (D. Pa. June 1, 1967), and a temporary restraining order has been issued in Maryland, *Mantell v. Dandridge* (D. Md. Oct. 24, 1967).

opinion in *Ramos, supra,* is attached as an appendix to this opinion, and the views expressed therein are adopted for the purpose of this motion.

Defendants contend that the provision for temporary general assistance in hardship cases sufficiently blunts the discriminatory effect of the otherwise applicable one year residence requirement to defeat plaintiffs' claim. Defendants have not produced evidence as to the degree to which the provision alleviates the situation of needy recent arrivals, and for the purpose of this motion we find that it is not readily made available on any basis to applicants who lack the residence requirement.

We conclude that plaintiffs are entitled to a preliminary injunction, enjoining defendants, their successors, and persons under their control from denying to an applicant aid to the aged, blind or disabled, aid to dependent children, or general assistance where such denial is based upon lack of fulfillment of the one year residency requirements of the Illinois Public Welfare Code. Counsel for plaintiffs are directed to prepare and submit to defense counsel and the court a suitable form of decree.

Class Action.

Under Rule 23 [11] we hereby determine that this is a properly maintained class action. The class is made up of all those residents of Illinois who need welfare aid or general assistance in the state and who have failed to reside therein for one year immediately past. Under the circumstances the best practicable notice to members of the class represented by plaintiffs is the coverage by the news media which will result from the filing of this deci-

11. F.R. Civ. P.

sion. The members of the class are hereby notified that the court will exclude anyone from the class if he so requests within 30 days of the filing date; the judgment will include all members who do not request exclusion and any member not requesting exclusion may, if he desires, enter an appearance through counsel.

We emphasize that what has been said in this opinion is based on the pleadings and affidavits and the submission by the parties of legal issues upon a motion for preliminary injunction, and the decision at this time is limited to the granting of such injunction. In the nature of a case where the main or sole issues are of law, the decision on preliminary injunction tends to be the decision on the merits. We do not, however, foreclose a trial if any party considers there are issues of fact or further briefing and argument on the law if desired. We direct each party to inform the court within 30 days from the date the opinion is filed whether he wishes a trial in order to establish facts, or a hearing on issues of law. After learning the desires of the parties, we will determine the course of further proceedings herein, or proceed to final disposition.

Thomas E. Fairchild,
United States Circuit Judge.

William J. Lynch,
United States District Judge.

Alexander J. Napoli,
United States District Judge.

December 28th, 1967.

APPENDIX

Excerpts from Ramos v. Health and Social Services Board (E.D. Wis., Nov. 21, 1967), No. 67-C-329.

We have considered the purposes which might be thought to be served by a provision of this sort, whether such purpose is a proper legislative purpose, and whether the provision is reasonable in the light of such purpose.

By definition, the one year residence requirement is not a waiting period required of all applicants. Whatever arguments might be legitimately made in favor of a waiting period required of every applicant, regardless of length of service, they can not reasonably be used to support a provision whereby aids are denied to all needy and otherwise eligible applicants who have resided in the state less than one year and granted to applicants similarly situated with respect to need and eligibility, but who have resided here for more than one year.

And because the residence required here is one year, we need not consider whether there are distinct considerations which might support a requirement of a relatively short period of residence.

Purposes which the one year residence requirement might be thought to serve appear to be as follows: (1) To make it unprofitable for a nonresident to come to Wisconsin for the purpose of drawing welfare aid payments; (2) to discourage nonresidents from coming to Wisconsin for other purposes unless they are certain of their ability to sustain themselves for the first year; and (3) to encourage or compel recent arrivals who find themselves in need to leave Wisconsin, presumably to return to their previous homes.

In our opinion, purposes (2) and (3) are not proper state legislative purposes. In *Edwards* v. *California*,[9] the Supreme Court held invalid a California statute which prohibited anyone from bringing an indigent person into California. The statute had the overall purpose of protecting the state and local public treasuries, as does the statute at bar. The majority in Edwards held the California statute an unconstitutional barrier to interstate commerce. It is true the one year residence requirement does not interfere as directly with interstate movement as did the California statute, but it is significant that the majority concluded that the state's desire to protect its treasury from applications for aid by recent arrivals did not justify interference with interstate movement.

Moreover four members of the court[10] concluded that citizens of the United States have a right, regardless of their economic condition, to seek their fortunes in states of their choice, a right which the state can not abridge.

It follows, we think from either theory, that a state can not justify a classification of its needy residents which operates to discourage nonresidents from coming to the state and to force recent arrivals to leave.

We surmise that purpose (1) is the purpose most widely thought to be served by the one year residence requirement. It is our impression that people of any state are inclined to believe that the level of aids in their home state is higher than elsewhere and that if there is no lengthy

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9. (1941), 314 U.S. 160, 62 S. Ct. 164, 86 L. Ed. 119.

10. Concurring opinion of Mr. Justice Douglas, with whom Mr. Justice Black and Mr. Justice Murphy joined, and concurring opinion of Mr. Justice Jackson.

residence requirement, nonresidents who are willing to live on public aids will move into the home state to enjoy a higher level of aid payments.

Purpose (1) and purpose (2) are both based on an assumption that poor people throughout the country have a considerable knowledge of the welfare laws of the various states, and take them into consideration in a decision to move. The factual basis for the assumption is dubious. There have been studies which indicate that people are motivated by employment, better opportunities, better living conditions, the presence of friends and families, and the like.[11]

Even if we assume, however, that some people move in order to enjoy a greener welfare pasture, and that a state may properly deny aid payments to persons who come with that intent, we think the one year residence requirement is not reasonable in the light of such purpose. It has the effect of a conclusive presumption that all people who need aid within a year have come for that purpose. It not only exerts the duress of the denial of the necessities of life upon people who have been so motivated, but also upon others who have come for different reasons, and upon children who have exercised no choice in the matter. In our opinion, the presumption of validity is overcome.

11/ See New York State Department of Social Welfare, *The Movement of Population and Public Welfare in New York State* (1958); Greenleigh Associates, Inc., *Facts, Fallacies, and Future* (1960); *A Study of Families from the Southern Appalachian Region Receiving Public Assistance* (1960); *A Follow-Up Study of General Assistance Applications to Determine Possible Changes in Their Characteristics* (1961); *The Blackboard Curtain* (1962); *Characteristics of General Assistance Applicants* (1965).

We are aware that the one year residence requirement njoys some implication of congressional approval, since Congress selected one year as the longest period of resi-ence which could be required by any state without dis-ualifying the state's program from federal participa-ion.[12] The question, however, is whether the state statte violates the fourteenth amendment, and approval by Congress does not control. We have already cited the de-isions of three district courts invalidating one year resi-ence requirements [fn. 7]. In one of them, *Harrell* v. *Tobriner*, the court dealt with a one year residence re-uirement imposed by Congress in the District of Colum-ia, and held that it violated the due process requirement f the fifth amendment.

12. See 42 U.S.C. secs. 302(b) (2), 602(b)(2), 1202(b) 1), and 1352 (b)(1).

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
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Gwendolyn Johnson, individually and on behalf of her minor child, Charles James Johnson; and Susan Brewer, all individually and on behalf of all others similarly situated,

Plaintiffs,

vs.

William H. Robinson, Director, Cook County Department of Public Aid; Harold O. Swank, Director, Illinois Department of Public Aid; William G. Clark, Attorney General of the State of Illinois,

Defendants.

No. 67 C 1883

JUDGMENT

This cause coming to be heard on motion of defendants for an order suspending the preliminary injunction previously entered against defendants Swank and Robinson, pending appeal to the United States Supreme Court; and on a motion by the plaintiffs for summary judgment and for a permanent injunction as prayed for in their complaint; and the Court having considered the pleadings, affidavits, various briefs and memoranda of the parties and arguments of counsel; the Court having filed its memorandum opinion containing findings of fact and conclusions of law; the Court having entered a decree granting

preliminary injunction and containing further findings fact and conclusions of law:

The Court readopts its earlier findings of fact and con-usions of law, and further finds that:

1. There is no genuine issue as to any material fact.

2. The one-year residence requirements of Ch. 23, Ill. ev. Stat. secs. 3-1.1, 4-1.5, and 6-1.1 deprive plaintiffs and e members of the class they represent of rights guaran-ed by the Equal Protection Clause of the Fourteenth nendment of the United States Constitution and are erefore void and unenforceable.

3. Plaintiffs are entitled as a matter of law to a declara-ry judgment and permanent injunction as prayed in their mplaint.

4. No valid reason exists for entry of an order staying e injunction previously granted.

Wherefore, IT IS ORDERED:

1. The motion of defendants Robinson and Swank for order suspending the preliminary injunction previously anted, pending appeal of this cause to the United States preme Court, be, and said motion is hereby, denied.

2. That the motion of plaintiffs for summary judgment , and said motion is hereby, granted.

3. That the defendants Swank and Robinson, their ents, employees, successors and all persons in active con-rt and participation with them, are hereby permanently joined from denying to plaintiffs and the class they rep-sent, aid to the aged, blind and disabled, aid to families dependent children, or general assistance, where the sole ason for such denial is failure to have resided in the

State of Illinois for one full year directly preceding application for one of those forms of assistance.

4. Defendants Swank and Robinson, their agents, employees, successors and all persons in active concert and participation with them, are hereby permanently enjoined from enforcing the one-year residence requirement of Ch. 23, Ill. Rev. Stat., Sec. 3-1.1, 4-1.5 and 6-1.1, 1967.

5. The Clerk of Court is hereby ordered to issue a writ of injunction without bond pursuant to this decree.

ENTER:

Thomas E. Fairchild,
Circuit Judge.

William J. Lynch,
District Judge.

Alexander J. Napoli,
District Judge.

DATED: February 20th, 1968

APPENDIX B.

Illinois statutory residence requirement for aid to the aged, blind or disabled.

3—1.1.—Residence. The person shall have resided in this State continuously for at least 1 year immediately preceding his application for aid. However, a blind or disabled person who has residence of lesser duration may qualify if he become blind or disabled while a resident of the State and such residence has been continuous and uninterrupted from the time of such blindness to the time of the accident or illness causing the disability. Ill. Rev. Stat. ch. 23, § 3-1.1 (1967)

Illinois statutory residence requirement for aid to families with dependent children.

4—1.5.—Residence. The child must have resided in the State for 1 year immediately preceding the application for aid, or the parent or other relative with whom he is living must have resided in the State for 1 year immediately preceding the application. For a child under age 1 at the date of application, the parent or other relative with whom he is living must have resided in the State for 1 year immediately preceding the child's birth or the date of the application.

The parent, parents or other relatives providing care and supervision for the child qualify for inclusion in the grant of financial aid only if they have resided in the State for 1 year immediately preceding the application for aid. The residence of a married woman shall be deemed to be that of her husband unless they are living separate and apart, in which case she shall have established separately 1 year of residence immediately preceding the application. Ill. Rev. Stat. ch, 23, § 4-1.5 (1967)

Illinois statutory residence requirement for general assistance.

6—1.1—Residence. Except as otherwise provided in this Section, the person must have resided in this State continuously for at least one year immediately preceding the application for aid.

If it appears that an applicant is not a resident of this State but that he will suffer great hardship and privation unless general assistance is provided, general assistance may be given for such temporary period of time as the need therefor exists. If the applicant is a resident of some place within the United States charged by law with the support of its needy residents, upon the request of the applicant, transportation to such place may be provided, together with support during the journey and temporary support pending transportation.

If the person is a resident of this State but has not resided in the governmental unit in which he makes application for a continuous period of 6 months, the governmental unit in which he last so resided shall be charged with providing the necessary aid until the person has resided in the governmental unit to which he has moved for a continuous period of 6 months. The governmental unit to which he has moved shall thereupon become responsible for providing the necessary aid, whether or not he has received general assistance during the 6 months period. The local governmental unit to which application is made shall determine promptly whether or not the applicant meets the 6 months residence resuirement. Pending this determination, general assistance shall be provided if the person is otherwise eligible as a needy person. If it is determined that he is a resident of another governmental unit notice shall be given that unit. Upon receipt of such notice that unit shall furnish the necessary aid until the person has established a residence

in the governmental unit in which he had made application. On failure or refusal of the unit of residence to provide aid, the unit to which application is made shall provide the aid which shall be recoverable against the unit of residence by appropriate civil action. Ill. Rev. Stat. ch. 23, § 6-11 (1967)

APPENDIX C.

ILLINOIS PUBLIC AID COMMISSION GENERAL ASSISTANCE RULES AND REGULATIONS

(Adopted: July 1958)

SECTION III. Eligibility Requirements

Rule 24. RESIDENCE: It is the supervisor's responsibility to determine the residence of any person who makes application for General Assistance, in accordance with the provisions of the Code and the rules of the Commission.

General Assistance shall be furnished by the supervisor only to persons, otherwise eligible and in need, who have six months' residence in the governmental unit and one years' residence in Illinois except that;

1. He may provide temporary assistance to persons pending the determination of their place of residence.
2. He shall furnish General Assistance to persons determined to be residents of another governmental unit in the State, if they are otherwise eligible, after giving due notice to the supervisor of that governmental unit; the kind and amount of such General Assistance to be provided in accordance with the provisions of the Code and these rules and regulations.
3. General Assistance may not be provided to transients.

   General Assistance may be given for a temporary period only to single persons or families with less than one year's residence when they can demonstrate that

they have established themselves in a local governmental unit and that grave hardship exists.

The term "temporary" shall be defined as not more than 90 days except in very unusual circumstances.

If the supervisor establishes that an applicant is a resident of some place within the United States charged by law with the support of needy persons, the supervisor may return such applicant to his place of residence and may furnish transportation to such place and support during the journey, provided the applicant requests return to his place of residence and the state of his residence gives approval for his return.

SUPREME COURT OF THE UNITED STATES

October Term, 1968.

ROBINSON ET AL. *v.* JOHNSON ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS.

No. 67. Decided May 5, 1969.

PER CURIAM.

The judgment is affirmed.

MR. JUSTICE BLACK dissents for the reasons given in the dissenting opinion of THE CHIEF JUSTICE in *Shapiro* v. *Thompson*, 394 U. S. —, decided April 21, 1969.

MR. JUSTICE HARLAN dissents for the reasons given in his dissenting opinion in *Shapiro* v. *Thompson*, 394 U. S. —.